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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,917	12/22/2003	M. Timothy Michael		8413

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EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,917

Applicant(s)

MICHAEL, M. TIMOTHY

Examiner

Michael Trettel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to. In line 9 of the claim --of-- should be inserted after "disposed".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 7 and 10 to 13 are rejected under 35 U.S.C. 102(b) as being anticipated by James (US 4,633,538). James '538 shows a lifting chair device that comprises a mobile chassis 1 that includes a wheeled base structure, an upright and vertical column 2, a lifting arm 3 cantilevered from the column 2, and a seat 5 supported upon the lifting arm 3. The chassis is formed as an open-fronted U-shaped frame with a pair of side arms 10, 11 connected by a rear cross member 12 upon which the column 2 is mounted, with castors 15 being mounted at the ends of the cross arm 12 and wheels 14, 16 being mounted to the side arms 10, 11. The column 2 has an integrated power driven screw assembly shown in Figures 5 and 6 which is used to raise and lower the lifting arm 3, and thus raise and lower the seat 5. The seat 5 can be dropped into a position adjacent the floor and shown in Figure 1, and then raised into an elevated position also as shown

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in Figure 1. A control pendant 59 is attached to the power operated screw unit by a lead 60, which inherently allows the device to be operated by an occupant of the chair or by a person standing next to the lifting chair device. Handles 62 are attached to the column 2 to assist in moving the device as needed. The seat 5 includes a pair of armrest 8 or the seat occupant's use. Note that the upper end of the screw 24 includes a square section 76 which enables a detachable winding handle to be fitted in order to turn the screw by hand (column 5, lines 47 to 55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over James (US 4,633,538) in view of Durst, Jr. (US 3,596,298). Durst teaches that a potable invalid lifting device can have a mobile chassis 3 that includes side arms 5 connected by a cross member 6, in which the side arms 5 have skid pads or friction plates 9 attached to their undersides for engaging a floor surface. The ends of the side arms have wheels 11 that are inset relative to the bottom surface of the arms, which allows a user to easily roll the lift about as needed, and then allow it to rest upon the friction plates 9. The friction plates 9 create a stable configuration for the lift, by keeping it from slipping while it is in use. It would have been obvious to the skilled artisan to have added a set of friction plates and inset wheels to the mobile chassis of the James invalid lift in place of the

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wheels and castors already shown, since this would create an invalid lift that would have a stable lifting configuration that would not freely roll or move about while an invalid is being lifted.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weiner, James (US 3,829,916), and Carnes et al show mobile invalid lifting seats that are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Michael Trettel
Primary Examiner
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